

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning.

Rulemaking 04-04-003  
(Filed April 1, 2004)  
QF Issues

Order Instituting Rulemaking to Promote Consistency in Methodology and Input Assumptions in Commission Applications of Short-run and Long-run Avoided Costs, Including Pricing for Qualifying Facilities.

Rulemaking 04-04-025  
(Filed April 22, 2004)  
QF Issues

**JOINT RULING OF ADMINISTRATIVE LAW JUDGES  
GRANTING MOTION TO STRIKE**

On September 19, 2005, Southern California Edison Company (SCE), Pacific Gas and Electric Company (PG&E), and San Diego Gas & Electric Company (SDG&E), (the Joint Parties), filed a motion to strike the testimony of Frederick H. Pickel on behalf of the County of Los Angeles. This ruling grants the motion to strike.

The scope of this proceeding is set forth in the Assigned Commissioners' Ruling and Scoping Memo (ACR) Consolidating Rulemaking (R.) 04-04-003 and R.04-04-025 for the Limited Purpose of Joint Evidentiary Hearings on Policy and Pricing of Qualifying Facilities dated February 18, 2005. As set forth in the ACR, the joint evidentiary hearings will include both the Qualifying Facilities (QF) pricing issues to be covered in Phase 2 of R.04-04-025, as well as the development

of a long-term policy for handling expiring and new QF contracts to be covered in R.04-04-003.

Parties to R.04-04-003 and R.04-04-025 submitted opening testimony addressing the consolidated issues on August 28, 2005. In its testimony, the County of Los Angeles (County) recommends that the Commission provide the County with the option to provide electrical service to its own County facilities within SCE's territory. The County also recommends that load switching to the Local Government Self-Serve Option not be subject to a cost responsibility surcharge (CRS)<sup>1</sup> or exit fee.

The Joint Parties also seek to strike page 92, line 8 through page 93, line 23 of the Cogeneration Association of California and the Energy Producers and Users Coalition (CAC/EPUC) Testimony, and page 97, line 2, beginning with "and (4)," through page 97, line 4 of the CAC/EPUC Testimony from the record in this proceeding. The subject portions of the CAC/EPUC Testimony recommend that the Commission clarify that Customer Generation Departing Load is exempt from stranded cost related "exit fees."

The Joint Parties argue that the subject testimony pertains solely to issues concerning direct access and exit fees for departing load that are outside the scope of this proceeding. The Joint Parties also argue that the subject testimony is an improper collateral attack on prior Commission decisions governing direct access and cost responsibility for Customer Generation Departing Load.

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<sup>1</sup> Decision (D.) 04-04-030 adopted CRS for certain categories of departing load served by customer generation within the service territories of California's three major electric utilities.

The County asserts that its proposal is within the scope of the proceeding because the proceeding is intended to consider, in part, “a long-term policy for expiring contracts” and its proposal would provide a potential long-term policy for the treatment of some QFs whose pricing agreements will expire soon. The County argues that since the proposal is not a “direct access” proposal because the County is not an Electric Service Provider as defined by § 394 of the Pub. Util. Code and the transaction contemplated is not a “direct transaction” as defined by Pub. Util. Code § 9604, it would not violate the Commission’s suspension of direct access adopted in D.01-09-060, D.01-10-036, and D.02-03-055. Instead, under the Local Government Self-Serve Option, County accounts would continue to be served under the existing applicable tariffs, but the accounts would be credited for energy and capacity provided by County facilities. Essentially, the County seeks the right to have the power it currently sells to SCE netted against the generation supplied by SCE to its other County facilities without the imposition of exit fees or CRS. Although the County states that its proposal does not involve direct access, it appears that if direct access were not suspended, the County would not need Commission authority to contract with other County facilities to meet its load upon expiration of the existing contract. However, as the Commission found in D.04-01-050, since direct access transactions have been suspended, there is currently no means for customers to serve their own loads with remotely sited generation unless the customer qualifies as a Community Choice Aggregator.

We agree with the Joint Parties that the subject testimony raises policy issues related to direct access, the CRS, and exit fees that are outside the scope of this proceeding.

Therefore, **IT IS RULED** that the motion of Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company, filed on September 19, 2005, to strike the testimony of Frederick H. Pickel on behalf of the County of Los Angeles and page 92, line 8 through page 93, line 23 of the Cogeneration Association of California and the Energy Producers and Users Coalition (CAC/EPUC) Testimony, and page 97, line 2, beginning with “and (4),” through page 97, line 4 of the CAC/EPUC Testimony is granted.

Dated January 9, 2006, at San Francisco, California.

/s/ CAROL A. BROWN

Carol A. Brown  
Assigned Commissioner

/s/ JULIE M. HALLIGAN

Julie M. Halligan  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Joint Ruling of Administrative Law Judges Granting Motion to Strike on all parties of record in this proceeding or their attorneys of record.

Dated January 9, 2006, at San Francisco, California.

ELVIRA T. NIZ

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**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.